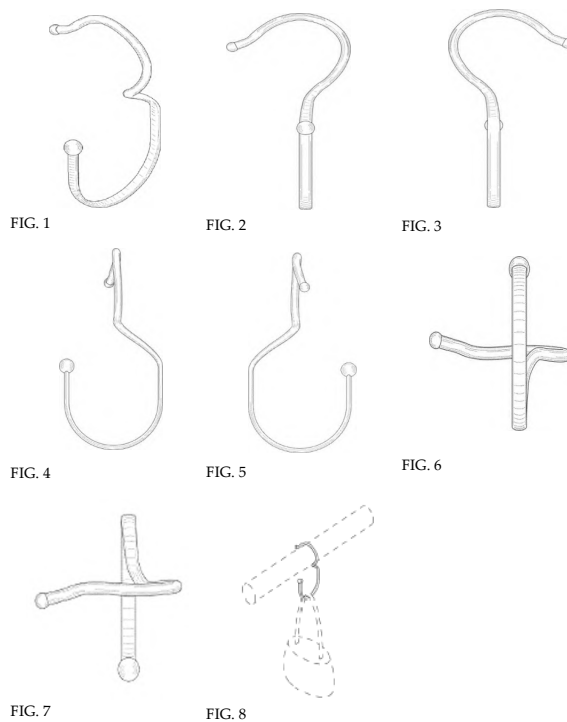
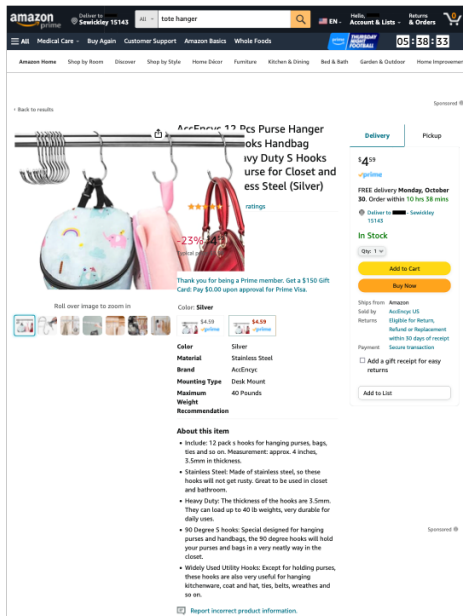


defendants (Dkt. #38), the plaintiff's design patent only prevents others from selling a product with the same ornamental design features.

The design protected by the figures shown in plaintiff's patent are visually distinct and different from the design of the products sold by AccEncyc, as is apparent from a comparison of the illustrations and sale listings reproduced in plaintiff's filings:



Amazon.com: AccEncyc 12 Pcs Purse Hanger Closet Bag Hooks Hand... <https://www.amazon.com/AccEncyc-Handbag-Organizer-Hanging-Stain...>



1 of 7

10/26/2023, 1:21 PM

Dkt. #39-1 at pp. 16-17. As can be plainly seen, the hooks sold by AccEncyc lack the “corkscrew” twist in the middle of the hook and the ball-shaped ends on plaintiff’s design. These differences quickly take the products at issue outside the scope of plaintiff’s design patent. At a minimum, they raise substantial doubt as to the applicability of plaintiff’s patent and preclude any finding that plaintiff is likely to succeed on the merits of its infringement claim.

Second, and more urgently, there is no basis whatsoever for maintaining the freeze impose on AccEncyc’s funds held by Amazon by the TRO. Indeed, there was never any sufficient basis for ordering such funds held in the first place.

There is not one word specific to AccEncyc in any of plaintiff's filings showing that it – as opposed to some hypothetical off-shore counterfeiter – is more likely that any other defendant in any lawsuit to transfer its assets outside the reach of the Court to avoid paying a judgment in this case. Nor is there one word on any of plaintiff's filings justifying freezing *all* of AccEncyc's funds held by Amazon without any knowledge or regard for the quantum of funds frozen in relation to plaintiff's potential recovery in this case, even assuming it is successful in securing a judgment.

Plaintiff has not alleged any quantum of sales by AccEncyc, nor have they justified any quantum of funds that should be held as a result. In fact, AccEncyc has sold less than \$500 worth of the products at issue, but the TRO has resulted in over \$48,000.00 in funds being frozen as of today – an amount that is growing every day as a result a sales of unrelated products. Not only is this asset freeze improper for the legal reasons set forth in Mr. Urbancayk's filing (Dkt. #38), it is irreconcilable with any notion of equity for the plaintiff to have deprived AccEncyc of approximately 100 times the amount of revenue it has had from any alleged infringement, and to have done so without prior notice or opportunity to be heard. Few businesses can survive cut off from their revenues for now almost a month, and AccEncyc has been and continues to be damaged by this grossly disproportionate hold on its funds, frankly on no other basis than it is a Chinese company.

AccEncycyce respectfully requests that the Court deny plaintiff's motion for the reasons set forth above and as stated in the submissions of other defendants and that the Court order an immediate release of its Amazon funds.

December 18, 2023

/s/ Timothy A. Duffy

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